

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 HOUSE BILL 2169

By: McCullough

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6 AS INTRODUCED

7 An Act relating to labor; enacting the Civil
8 Liability for Employers Hiring Ex-Offenders Act;
9 prohibiting cause of action against employer for
10 hiring convicted nonviolent, nonsexual offender;
11 barring evidence of prior conviction in negligent
12 hiring action; providing exception for liability
13 limitation; allowing evidence of prior conviction if
14 employer meets specified criteria; excluding
15 applicability if certain conditions occur; construing
16 act; excluding presumption; providing for
17 codification; and providing an effective date.

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20 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

21 SECTION 1. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 100 of Title 40, unless there is
23 created a duplication in numbering, reads as follows:

24 A. This act shall be known and may be cited as the "Civil
Liability for Employers Hiring Ex-Offenders Act".

B. A cause of action shall not be brought against an employer,
general contractor, premises owner, or other third party solely for
hiring an employee or independent contractor who has been convicted
of a nonviolent, nonsexual offense.

1 C. In a negligent hiring action against an employer, general
2 contractor, premises owner, or other third party for the acts of an
3 employee or independent contractor that is based on a theory of
4 liability other than that described by subsection B of this section,
5 the fact that the employee or independent contractor was convicted
6 of a nonviolent, nonsexual offense before the employee or
7 independent contractor's employment or contractual obligation with
8 the employer, general contractor, premises owner, or other third
9 party, as applicable, may not be introduced into evidence.

10 D. This act shall not preclude any existing cause of action for
11 failure of an employer or other person to provide adequate
12 supervision of an employee or independent contractor, except that
13 the fact that the employee or independent contractor has been
14 convicted of a nonviolent, nonsexual criminal offense may be
15 introduced into evidence in the suit only if the employer:

16 1. Knew of the conviction or was grossly negligent in not
17 knowing of the conviction; and

18 2. The conviction was directly related to the nature of the
19 employee's or independent contractor's work and the conduct that
20 gave rise to the alleged injury that is the basis of the suit.

21 E. The protections provided to an employer, general contractor,
22 premises owner, or third party under this act shall not apply in a
23 suit concerning:
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1 1. The misuse of funds or property of a person other than the
2 employer, general contractor, premises owner, or third party, by an
3 employee or independent contractor, if, on the date the employee or
4 independent contractor was hired, the employee or independent
5 contractor had been convicted of a crime that includes fraud or the
6 misuse of funds or property as an element of the offense, and it was
7 foreseeable that the position for which the employee or independent
8 contractor was hired would involve discharging a fiduciary
9 responsibility in the management of funds or property;

10 2. The misappropriation of funds by an employee or independent
11 contractor, if the employee or independent contractor was hired as
12 an attorney and, on the date the employee or independent contractor
13 was hired, the employee or independent contractor had been convicted
14 of a crime that includes fraud or the misuse of funds or property as
15 an element of the offense; or

16 3. A violent offense or an improper use of excessive force by
17 an employee or independent contractor, if the employee or
18 independent contractor was hired to serve as a law enforcement
19 officer or security guard.

20 F. This act shall not be interpreted as implying a cause of
21 action exists for negligent hiring of an ex-offender in factual
22 situations not covered by this act. In deciding whether liability
23 exists in such cases, courts shall not presume that, because they
24 are not covered in the protection herein, there is a legislative

1 intent expressed through the passage of this act to extend liability
2 in such cases where it is not already established.

3 SECTION 2. This act shall become effective November 1, 2015.

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